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9 Attorneys for Defendants
HAROLD CARTER, RAYMOND LOERA,
10 COUNTY OF IMPERIAL, AND IMPERIAL
COUNTY SHERIFF'S DEPARTMENT

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA
13

14 ADRIANA FERNANDEZ,
15 Plaintiff,
16

17 v.

18 JAMES RAY MORRIS, HAROLD
CARTER, RAYMOND LOERA,
19 COUNTY OF IMPERIAL, IMPERIAL
COUNTY SHERIFF'S DEPARTMENT,
20 and DOES 1-100, inclusive,
21 Defendants.
22

Case No. 08 CV 0601 JLS JMA

**DEFENDANTS HAROLD CARTER,
RAYMOND LOERA, COUNTY OF
IMPERIAL, AND IMPERTY COUNTY
SHERIFF'S DEPARTMENT'S REQUEST
FOR JUDICIAL NOTICE IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S COMPLAINT**

**[Concurrently filed with Notice of Motion
and Motion to Dismiss; Memorandum of
Points and Authorities; and Declarations of
Robert Cortez and Jessica Cisneros]**

NO ORAL ARGUMENT REQUIRED

Date: July 10, 2008
Time: 9:00 a.m.
Judge: Magistrate Judge Jan M. Adler
Courtroom: D

23 TO PLAINTIFF, AND HER ATTORNEYS OF RECORD:
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26 PLEASE TAKE NOTICE that on Thursday, July 10, 2008 at 9:00 a.m., or as soon
27
28

thereafter as the matter may be heard, in Courtroom D of the United States District Court for the Southern District of California, located at 880 Front Street, San Diego, California Defendants Harold Carter, Raymond Loera, County of Imperial and the Imperial County Sheriff's Department (collectively "County Defendants") will, and hereby do, move the Court pursuant to Federal Rule of Evidence 201 and applicable case law, to take judicial notice of Plaintiff's March 31, 2008 Application For Leave To Present Late Claim On Behalf Of Adriana Fernandez ("Application for Leave").

The Motion will be based upon this Notice of Request, the Memorandum of Points and Authorities filed herewith, the Declaration of Jessica Cisneros filed herewith, and the pleadings and papers filed herein.

POINTS AND AUTHORITIES IN SUPPORT
OF REQUEST FOR TAKING JUDICIAL NOTICE

I.
INTRODUCTION

A court may consider judicially-noticed facts on a motion to dismiss. *Mullis v. United States Bankruptcy Court*, 828 F.2d 1385, 1388 (9th Cir. 1987). Allegations in the complaint need not be accepted as true if they contradict matters properly subject to judicial notice or by exhibit. *Id.* at 1388.

The County Defendants bring this Request for Judicial Notice in conjunction with their Motion to Dismiss Plaintiff's Complaint ("Motion to Dismiss") pursuant to the following authorities.

II.
INDISPUTABLY AUTHENTIC PUBLIC RECORDS
ARE SUBJECT TO JUDICIAL NOTICE

On a motion to dismiss, a court may take judicial notice of facts outside the pleadings. *Sears, Roebuck & Co. v. Metropolitan Engravers, Ltd.*, 245 F.2d 67, 70 (9th Cir. 1956). Federal Rule of Evidence ("FRE") 201 authorizes the Court to take judicial notice of "adjudicative" facts at any stage of a civil action. FRE 201(a) and (f). A judicially noticeable fact is one that is not

1 subject to reasonable dispute in that it is either: 1) generally known within the territorial
 2 jurisdiction of the trial court; or 2) capable of accurate and ready determination by resort to
 3 sources whose accuracy cannot reasonably be questioned. FRE 201(b). Pursuant to Fed.R.Evid.
 4 201, a court may take judicial notice of matters of public record. *Shaw v. County of San Diego*
 5 007 WL 2385093, 3 (S.D.Cal. 2007).¹

6 Courts take judicial notice of a broad variety of documents that are created within the
 7 context of government investigations and other administrative processes. For example, courts
 8 have judicially noticed records and reports of administrative bodies, items in the record of the
 9 case, and matters of general public record. *Interstate Natural Gas Co. v. Southern California Gas*
 10 *Co.*, 209 F.2d 380, 385 (9th Cir. 1953); *California Sportfishing Protection Alliance v. City of*
 11 *West Sacramento* (E.D. Cal. 1995) 905 F. Supp. 792, 805; *Intermedics, Inc. v. Ventritex, Inc.*
 12 (N.D. Cal. 1991) 775 F. Supp. 1258, 1261. This Court, in considering a FRCP 12(b)(6) motion to
 13 dismiss, has judicially noticed a plaintiff's tort claim filed against a county. *See Shaw v. County*
 14 *of San Diego, supra*, 2007 WL 2385093, 3.

15 The District requests that the Court take judicial notice of Exhibit "A" attached to the
 16 Declaration of Jessica Cisneros. Exhibit "A" is a copy of Plaintiff's March 31, 2008 Application
 17 For Leave. This document was signed by Plaintiff's counsel and submitted to the County in an
 18 attempt to comply with the California Tort Claims Act. The documents attached to the
 19 Application For Leave were attached and submitted by Plaintiff's counsel and are referenced in
 20 paragraph 23 of Plaintiff's Complaint. The Application for Leave and its attachments are public
 21 records and their accuracy cannot be disputed. Consequently, the Application for Leave is a
 22 proper subject of judicial notice.

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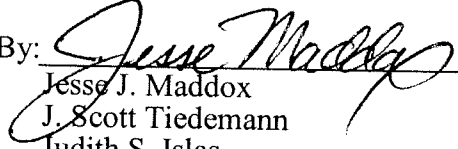
27 _____
 28 ¹ A copy of this case is attached to Defendants' Appendix Of Unreported/Unpublished Cases,
 concurrently filed herewith.

III.
CONCLUSION

Based on the foregoing, and pursuant to FRE 201, subdivision (f), the County Defendants respectfully request that the Court take judicial notice of Plaintiff's March 31, 2008 Application For Leave and its attachments in this matter.

Dated: May 21, 2008

Liebert Cassidy Whitmore

By: 
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LOERA, COUNTY OF IMPERIAL, AND
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